

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 9615 of 2005

Between:

D.S.V. chiranjeevi Rao, S/o. Late Venkat Rao,
(Under Suspension) O/o. District Manager, A.P. State Housing Corporation Limited,
Vizianagaram.

..... PETITIONER

AND

1 A.P. State Housing Corporation Limited, Rep. by its Managing Director,
Urdugally, Himayathnagar, Hyderabad./

2 The Government of Andhra Pradesh, Rep. by its Secretary, Housing

Department, A.P. Secretariat, Hyderabad.

3 A.P. State Housing Corporation Limited, Rep. by its District Manager,
Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the first respondent in issuing the impugned order bearing Proc.No. Vig.I./5541/VZM/2003-02, dated 5-3-2005 as arbitrary and illegal and set aside the same.

Counsel for the Petitioner: MR.S.SATYAM REDDY

Counsel for the Respondent No.2: GP FOR HOUSING

Counsel for the Respondent Nos.1 :Mr.K.Mohan Rami Reddy

The Court made the following :

ORDER:

This writ petition is filed seeking writ of mandamus for declaring the action of the first respondent in issuing the impugned order bearing Pro.No.Vig.1/5541/VZM/2003-2 dated 5.3.2005 as arbitrary and illegal.

The case of the petitioner is that he joined in the first respondent Corporation in the year 1985 as Work Inspector and promoted as Draughtsman in the year 1991 and further promoted as Assistant Engineer in the year 2002. While so, on 26.8.2003 the authorities of Anti Corruption Bureau have conducted a check at the premises of the District Co-operative Central Bank, Salur and found the petitioner collecting some amounts from the beneficiaries. The Anti Corruption Bureau after conducting enquiry into the matter of collection of amounts submitted a report to the Government and, therefore, the Government directed the first respondent to place the petitioner under suspension. Accordingly, the first respondent by the impugned proceedings dated 5.3.2005 placed the petitioner under suspension. Aggrieved by the same, the writ petition has been filed.

The learned counsel appearing for the petitioner contends that the impugned order of suspension was passed without application of independent mind by the first respondent as the alleged incident took place in the year 2003 and the petitioner was not present at the time of the incident and after lapse of two years the petitioner was placed under suspension. He also relied upon the judgment of this Court in W.A.No.818 of 2005 whereunder the Division Bench set aside the said proceedings dated 5.3.2005 wherein another Deputy Executive Engineer was suspended and, accordingly, sought for setting aside the said proceedings in the case of the petitioner also.

On the other hand, the learned Standing Counsel for the respondent Corporation submits that after considering the report of the A.C.B and after applying its mind the petitioner was placed under suspension and that when an employee receives bribes directly or indirectly he can be placed under suspension and it is a case where the petitioner along with others caught red-handed while receiving bribes from the beneficiaries of Kondakeguva with the connivance of two private persons. The A.C.B has conducted enquiry into the matter and furnished report to the Government and the Government issued instructions to place the individual under suspension and, accordingly, the petitioner was placed under suspension.

Normally, this Court will not interfere with the suspension pending enquiry against an employee unless the authority who passed the said order has no jurisdiction and that there was non-application of mind in issuing the impugned proceedings. A perusal of the impugned proceedings goes to show that necessary material has been placed before the Managing Director, who issued the said order, satisfied that the criminal charge under investigation is connected with his official position as a Government Servant and involved mortal turpitude and therefore consider it necessary to place the petitioner under suspension.

The learned counsel for the petitioner contends that the authorities of A.C.B has conducted preliminary enquiry only and there is no departmental enquiry and the alleged incident took place in the year 2003 and the presence of the petitioner on the said date of the alleged incident is not looked into and he was belatedly suspended and, therefore, seeks to set aside the said order. The learned counsel has placed reliance on the judgment of this Court in W.A.No.818 of 2005 wherein the Division Bench held that there was not even a reference to the report of ACB or any other complaint in the order of suspension. The assertion on behalf of the first respondent that he had examined the matter, in detail, cannot be accepted, unless such examination can be culled out or discerned from the impugned order itself and consequently set aside the

impugned order dated 5.3.2005.

There is no dispute about the judgment rendered by the Division Bench of this Court. But in this case, the Managing Director after careful consideration of the available material and having regard to the circumstances of the case satisfied that the criminal charge under investigation is connected with his official position as a Government servant and involved mortal turpitude. It is also mentioned in the order that the petitioner involved in collection of bribe amount from the beneficiaries of Kondakegua Village with the connivance of two private persons. The petitioner is alleged to have been caught red handed while collecting the bribe amount. In view of the same, the order impugned in this writ petition cannot be set aside.

The writ petition is devoid of merit and it is, accordingly, dismissed. No order as to costs.

19.7.2005

Note:

Issue c.c. within three days

B.O.

kpr

To

- 1 The Managing Director, A.P.State Housing Corp.Ltd.,
Urdugally, Himayathnagar, Hyderabad.
- 2 The Secretary to Government, Housing

Department, A.P. Secretariat, Hyderabad.

- 3 The District Manager, A.P.State Housing Corporation Ltd.,
Vizianagaram District.

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